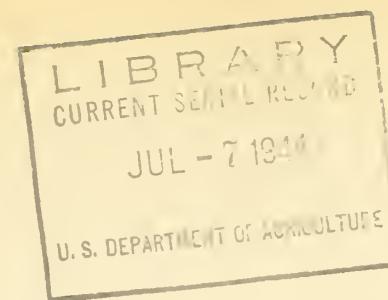


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FDO 95

MAR. 13, 1944

WAR FOOD ADMINISTRATION

[FDO 95]

PART 1401—DAIRY PRODUCTS

MILK SUGAR

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of milk sugar for defense, for private account, and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1401.170 Restrictions relative to milk sugar—(a) Definitions. When used in this order, unless otherwise distinctly expressed or manifestly incompatible with the intent hereof:

(1) The term "milk sugar" means any milk product containing 80 percent or more of lactose monohydrate, dry weight basis.

(2) The term "refined milk sugar" means U. S. P. grade lactose (U. S. P. XII (1942) page 253).

(3) The term "technical milk sugar" means technical milk sugar, as defined by the Office of Price Administration. Whenever a new definition of "technical milk sugar" is issued by the Office of Price Administration, the term "technical milk sugar," as used herein, shall mean technical milk sugar as defined in said new definition.

(4) The term "crude milk sugar" means all milk sugar other than refined milk sugar and technical milk sugar.

(5) The term "person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(6) The term "inventory" means all quantities of milk sugar, including refined, technical, and crude milk sugar, owned by or in the possession or control of any person.

(7) The term "Director" means the Director of Food Distribution, War Food Administration.

(b) **Restrictions.** (1) No person shall deliver, accept delivery of, use, produce, refine, or otherwise process milk sugar except in accordance with an authorization issued by the Director. Any such authorization shall be issued by the Director only if he determines that such authorization, including the conditions, if any, set forth therein by the Director, is necessary or appropriate in the public interest and to promote the national defense.

(2) Any person desiring to deliver, accept delivery of, use, produce, refine, or otherwise process milk sugar may submit an application to the Director for authorization pursuant to the provisions of this order. An authorization, as aforesaid, shall, so far as reasonably feasible, be issued by the Director prior to the beginning of the calendar month during which the applicant is to deliver, accept delivery of, use, produce, refine, or otherwise process the milk sugar.

(3) Each producer, refiner, or commercial user of milk sugar shall, as soon as reasonably possible after the issuance of this order, notify his regular customers of the requirements of this order; however, the failure to receive such notice from a producer, refiner, or commercial user, as aforesaid, shall not excuse any person from complying with the provisions of this order.

(c) **Exemptions.** (1) The provisions of (b) hereof shall not apply to deliveries of refined milk sugar in retail packages for household or pharmaceutical use if the purchaser is (i) a person who is purchasing the refined milk sugar in a retail package, for household use, from a retail store; (ii) the operator of one or more retail stores; or (iii) a distributor of refined milk sugar for resale by retail stores.

(2) The provisions of (b) hereof shall not apply to purchases by or sales to hospitals or institutions that use refined milk sugar under doctors' orders or prescriptions.

(d) **Records and reports.** (1) Each producer of crude milk sugar, technical milk sugar, or refined milk sugar shall complete Form FD 95-1, and shall mail such completed form on or before the 5th day of each calendar month in accordance with (j) hereof.

(2) Each person who desires an authorization pursuant to (b) hereof may file with the Director an application therefor on Form FD 95-2 and mail such completed form on or before the 10th day of each calendar month in accordance with (j) hereof. Any person requesting an authorization to accept delivery of milk sugar for increasing his inventory shall indicate, in the aforesaid application, "inventory" as a product end-use. Any person desiring to use crude milk sugar or technical milk sugar for further refining shall indicate, in the aforesaid application, "refining" as a product end-use.

(3) The Director shall be entitled to obtain such additional information from, and require such additional reports and records by, any person as may be necessary or appropriate, in the discretion of the Director, to the enforcement or administration of the provisions of this order.

(4) Each person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in technical milk sugar, crude milk sugar, and refined milk sugar.

(5) The reporting and record-keeping requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Subsequent record-keeping and reporting requirements will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(e) **Existing contracts.** The restrictions of this order shall be observed without regard to the rights of creditors, existing contracts, or payments made. This order shall not, however, be construed as reducing the amount of milk sugar which any person is required to offer or deliver pursuant to contracts heretofore or hereafter entered into with any governmental agency.

(f) **Audits and inspections.** The Director shall be entitled to make such audit or inspection of the books, records, and other writing, premises or stocks of milk sugar of any person, and to make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or administration of this order.

(g) **Petition for relief from hardship.** Any person affected by this order who considers that compliance herewith would work an exceptional or unreasonable hardship on him may file a petition for relief with the administrator of this order. Such petition shall be addressed to Order Administrator, Food Distribution Order No. 95, Dairy and Poultry Branch, Office of Distribution, War Food Administration, Washington 25, D. C. Petition for such relief shall be in writing and shall set forth all pertinent facts and the nature of the relief sought. The Order Administrator may take any action with reference to such petition which is consistent with the authority delegated to him by the Director. If the petitioner is dissatisfied with the action taken by

the Order Administrator on the petition, he shall, by requesting the Order Administrator therefor, obtain a review of such action by the Director. The Director may, after said review, take such action as he deems appropriate, and such action shall be final. The provisions of this paragraph (g) shall not be construed to deprive the Director of authority to consider originally any petition for relief from hardship submitted in accordance herewith. The Director may consider any such petition and take such action with reference thereto that he deems appropriate, and such action shall be final.

(h) *Violations.* The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using milk sugar, or any other material subject to priority or allocation control by the War Food Administrator, and may recom-

mend that any such person be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(i) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate to any employee of the United States Department of Agriculture any or all of the authority vested in him by this order.

(j) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: Order Administrator, FDO 95, Dairy and Poultry Branch, Office of Distribution, War Food Administration, Washington 25, D. C., Ref: FD 95.

(k) *Territorial extent.* This order applies to all persons in the United States, its Territories and Possessions, and the District of Columbia.

(l) *Effective date.* This order shall be effective on April 1, 1944, at 12:01 a. m., e. w. t.

(E.O. 9280, 7 F.R. 10179; E.O. 9392, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 13th day of March 1944.,

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration, Summary to FDO 95.

Because milk sugar production this year will not be sufficient to meet the requirements of all users, the War Food Administration has issued Food Distribution Order 95 to direct milk sugar to the most essential purposes.

Effective April 1, FDO 95 will require the approval by the Director of Food Distribution for the use of milk sugar for any purposes. Deliveries in retail packages, for household use, for delivery to retail stores and for prescriptions, are exempted. Although approval from the Director is not required for these deliveries the quantity of milk sugar which may be packaged for these purposes will

be limited. The Milk Sugar Industry Advisory Committee, meeting with WFA officials in Washington recently, unanimously agreed that an order was needed.

Under the order, authorization to accept delivery and use milk sugar must be requested on forms supplied by WFA's Office of Distribution. As soon as approval is granted the supplier is notified of the quantity he can supply under the order.

It is estimated that the total requirements for milk sugar in 1944—including infant foods, pharmaceuticals, penicillin—will be more than 15 million pounds, exceeding production in 1943 by at least 8 million pounds. A sharp increase in requirements for milk sugar was anticipated during the last half of 1943 and

plans were made with producers to increase production. Some new equipment will go into production during this year which is expected to bring the production of milk sugar in 1944 to about 13 million pounds.

Most of the new output is expected to be made from cheese whey and, therefore, will not draw milk away from fluid uses or from the major manufactured dairy products. Cheese whey is a by-product of cheese manufacture and there are large supplies. WFA has been encouraging the use of cheese whey as a food for humans since it contains some of the important milk solids, including milk sugar. Prior to 1944 most of the manufactured milk sugar was derived from casein whey.

WAR FOOD ADMINISTRATION
Office of Distribution

MILK SUGAR:- REFINERS AND USERS REPORT OF RECEIPTS, DISPOSITION AND STOCKS, AND APPLICATION TO ACCEPT DELIVERY AND REFINER OR USE

(Month covered by report)

19

MAIL TO:
WAR FOOD ADMINISTRATION
Office of Distribution
Washington 25, D. C.

(Name of firm)

ATTENTION: Dairy and Poultry Branch

Address (Street, City, State)

INSTRUCTIONS: Two copies of this report should be mailed on or before the 10th day of the current month. The last month is the month just passed; the current month is the month in which the application is made and the next month is the month for which authorization to purchase or to use is requested.

Table I.- Receipts, disposition and stocks

Grade (1)	Quantity received last month (2)	Quantity used during last month (3)	Stocks end of last month (4)	Receipts authorized for current month (5)	Estimated use during current month (6)	Estimated stocks end current month (7)
	Pounds	Pounds	Pounds	Pounds	Pounds	Pounds
U.S.P.						
Technical						
Crude						

If estimated stocks end of current month (col. 7) are inadequate for next month's use (col. 14) apply for authorization to accept delivery in Table II below.

Table II.- Application for authorization to accept delivery next month (enter _____) List below names of suppliers from whom delivery is being requested. Enter serial numbers of FDO-95-3 for each supplier listed.

1/ Enter quantity separately for each grade for each supplier

To the above named applicant: You are hereby authorized to accept delivery from the above suppliers, the quantities of material allocated in column (11). This authorization shall terminate automatically if you require your supplier to postpone any delivery authorized hereby beyond ten days after the close of the month for which it is allocated, or if you fail to place an order for this material before the end of the month.

bx

(Date)

Administrator. WFO-95

Table III.- Application for authorization to use milk sugar for your next months production (name month .)

To the above named applicant: You are hereby authorized to use solely for the purpose specified, the quantities of material allocated in column (18). This authorization shall terminate if you fail to use the material before the 10th of the month following the month for which milk sugar was allocated and the material shall be held in inventory subject to future allocation.

(Date)

By

(Administrator, WFO-95)

CERTIFICATION

The undersigned company, and the official executing this certification on its behalf, hereby certify that the information contained in this report and application is correct and complete to the best of their knowledge and belief.

(Date)

by

Signature of authorized official

(Title)

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WAR FOOD ADMINISTRATION

Office of Distribution

(Name of supplier)

Address: (Street) (City) (State)

**SUPPLIER'S AUTHORIZATION TO
DELIVER MILK SUGAR**

During Month of _____

(Shipping point)

INSTRUCTIONS

This form is to be filed in duplicate along with Form FDO 95-2 by the user or refiner of milk sugar. Separate forms are to be filed for each supplier. Fill in all spaces except quantity. If approved this form will be mailed by War Food Administration directly to the supplier named herein.

To the above-named supplier: _____

You are herewith authorized to deliver---

GRADE

QUANTITY
(To be filled in by W. F. A.)

To _____

(Name of company)

Address: (Street) (City) (State)

(Delivery destination)

This authorization shall terminate automatically if customer fails to place order before end of month or if customer causes postponement of delivery authorized hereby beyond 10 days after close of month.

Administrator, WFO 95.

INSTRUCTIONS—Form FDO 95-3

Supplier's Authorization to Deliver Milk Sugar During Month of _____

Two copies of FDO 95-3 should be filed for each supplier from whom permission to accept delivery is requested. One copy is retained as a record by the War Food Administration, the other, when authorized, is sent to the supplier as his authorization to deliver.

These copies of FDO 95-3 should be mailed with Form FDO 95-2 on or before the 10th day of the current month.

The "Quantity" column will be filled in by War Food Administration and a copy of this form showing the quantity authorized for delivery will be mailed by War Food Administration directly to the supplier.

Note the conditions given at the foot of Form FDO 95-3 under which the authorization is automatically canceled.

Please file these instructions for reference.

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